

CLAUSE NOTES

Place Names Bill 2019

PART 1 - PRELIMINARY

Clause 1 **Short Title**

Clause 2 **Commencement**

The provisions of this Act commence on a day or days to be proclaimed.

Clause 3 **Interpretation**

This Clause defines key terms in the Act.

Clause 4 **Meaning of *place***

This Clause removes ambiguity from the meaning of place in the current legislation, and ensures consistency with the manner that place is described in other jurisdictions. The terms 'town or city' are specifically excluded from the definition of place, as the naming of towns and cities are accommodated in the *Local Government Act 1993*.

PART 2 - ADMINISTRATION

Clause 5 **Minister may make Guidelines**

This Clause enables the Minister to endorse Guidelines in respect of naming places. The Guidelines will set out the principles, practices and processes to be followed in selecting, assigning, altering or discontinuing place names, and require and specify the procedures for consultation in respect of place name submissions. The Guidelines will specify the persons responsible for proposing certain names, and set out their responsibilities. The Guidelines will be made publicly available in an electronic format and will be reviewed regularly.

Clause 6 **Place Names Advisory Panel**

This Clause establishes the Place Names Advisory Panel. The Panel will consist of the Surveyor General as Chair, a senior spatial data and mapping officer from the Department, a person nominated by the Director of Parks and Wildlife Service, a person nominated by the Local Government Association of Tasmania, a community member with knowledge and experience in outdoor recreation, and up to two community members with knowledge and experience in heritage or historical matters, and linguistics. The Clause also provides for additional members to be appointed by the Minister as prescribed by Regulation. Other than the Surveyor General and the Senior Departmental officer, all other members of the Panel are appointed by the Minister.

Clause 7 **Registrar of Place Names**

This Clause establishes the Registrar of Place Names. The Registrar is to be appointed by the Secretary of the Department, and is to maintain and make available the Guidelines, and to maintain the Register of Place Names. The Registrar is to make entries in the Register as names are approved and is to make amendments when alterations are approved. The Registrar is empowered to make minor amendments to the Register such as typographical corrections or minor changes to the extent of a place when there is no impact on community use or expectation around that place.

Clause 8 **Register of Place Names**

This Clause establishes the Register of Place Names. An entry in the Register is to include each approved name for a place, and include the location, boundaries or extent of the approved place. The Register may also include for information purposes the names of areas and features that are not required to have approved names, or that have been named under other Acts. The Register will be in an electronic format or as otherwise determined by the Surveyor General, and will be made available to the public. The existing Placenames Tasmania database, accessed via the Placenames Tasmania web portal (www.placenames.tas.gov.au) will be the Register available at commencement.

PART 3 – PLACE NAMES

Clause 9 **Proposal of Certain Place Names**

This Clause applies to places other than roads or streets. In this Clause, a naming proposal for a new name, or an alteration of an approved name, or the alteration of the extent of an approved name may be submitted to the Registrar in accordance with the Guidelines. The Registrar may refuse to accept the proposal if he or she believes that the consultation requirements in the Guidelines have not been complied with or if the proposal does not adhere to the Guidelines.

Clause 10 **Approval of Certain Place Names**

This Clause relates to the approval processes for place names submitted in accordance with the Guidelines. If the proposal is not for a minor revision as outlined in Clause 7, the Registrar must cause the proposal to be advertised in accordance with the Guidelines. At the end of the specified advertising period, the Registrar must forward the proposal together with any submissions received during the advertising period, to the Panel. The Panel must consider the proposal and any submissions received, and as soon as practicable, make a recommendation to the Minister in respect of the proposal. After considering the Panel's recommendations, the Minister may either approve the recommendation, which may be to assign or alter, or revoke a name, or refuse to accept the Panel's recommendation in which case the Minister may request that the Panel reconsider the matter and make a new recommendation. With respect to names approved by the Minister under this Clause, the name is approved once the

Minister makes his or her decision, and the approved name is reflected in the Register and made publicly available. The Registrar may then cause a notice to be published in the *Gazette* specifying the details of the decision.

Clause 11 **Naming of roads, streets, &c.**

This Clause pertains to the naming of roads and streets. In this Clause the Responsible Authority is the authority that has naming responsibility for the road or street or State highway. In accordance with the Guidelines, the Responsible Authority may name the road or street, alter or revoke the name of a road or street, or amend the extent of a road or street. These actions may be made by the Responsible Authority so long as the name, alteration or revocation complies with the relevant provisions of the Guidelines, and the Act, and the relevant procedures of the Responsible Authority. Once an acceptable naming decision is received by the Registrar from a Responsible Authority, an entry is to be made in the Register to reflect that action. At this point a naming action submitted in accordance with this clause and entered into the Register, and made available to the public is taken to be an approved name.

The Registrar may only refuse a submission from a Responsible Authority under this Clause if the naming action does not comply with the Guidelines, or if the proposed name is the same as an approved name for another place.

If the Registrar is unable to resolve a suitable naming submission with the Responsible Authority, the Registrar is to submit the naming action to the Panel for consideration, and then the matter proceeds as described in Clause 10, including that the Panel makes a recommendation to the Minister for a decision.

Clause 12 **Registrar to record names in Register**

This Clause requires the Registrar to make or amend an entry in the Register as soon as he or she is notified of a decision of the Minister or a naming action under Clause 11. A name is the approved name for a place once the Register is so amended, and the Register is made available to the public.

Clause 13 **Person must not misrepresent name of place**

This Clause introduces provisions for penalties to apply if the name of a place is deliberately misrepresented. This is a provision that has not been present in Tasmania before but is present in other Australian and New Zealand jurisdictions. The Clause provides that a person must not in a document, brochure, map, notice or advertisement identify a place that is not the approved name for the place if the person knows or reasonably ought to know that such identification is likely to, or has the capacity to, mislead or deceive another person. This includes if the person represents that a place has an approved name when there is no approved name for the place. The penalty provisions are in terms of a fine not exceeding 50 penalty units for a body corporate, and not exceeding 20 penalty units for an individual. Further fines are available for each day during which the offence continues. This Clause is not intended to apply to circumstances where a portion of an approved name is used, such as when an Aboriginal or Dual name such as

kunanyi – Mount Wellington is used. In accordance with the Aboriginal and Dual Naming Policy recently revised by the Government, either or both names in this example are permitted without sanction. An example of deliberate misrepresentation of a name is when a party may suggest a lot for sale is in one locality, when it is in fact in another. This has the potential to mislead a potential purchaser, and may have consequences for their future development plans, bank loans and insurance considerations.

PART 4 – MISCELLANEOUS

Clause 14 Delegation

This Clause provides for the Minister to delegate any of his or her functions or powers under the Act other than those described in Clauses 5 and 10. Those Clauses refer to the power to endorse Guidelines and the power to approve names upon the recommendation of the Panel. The Minister may also not delegate his or her power of delegation.

Clause 15 Warning notices

This Clause provides for the Panel to issue Warning Notices to a person if the Panel reasonably believes that the person has committed an offence under the Act. The Warning Notice is to be in a form approved by the Panel and a person may not be prosecuted in respect of the offence unless the Warning Notice has been withdrawn by the Panel.

Clause 16 Infringement notices

This Clause provides for the Surveyor General or the Chairperson to issue Infringement Notices if the Surveyor General or the Chairperson reasonably believes that a person has committed an infringement offence against the Act or the regulations made under the Act. An Infringement Notice is to be issued in accordance with Section 14 of the *Monetary Penalties Enforcement Act 2005*, and is to be an amount up to 10% of the maximum applicable penalty for the offence.

The provisions for Warning Notices and Infringement Notices allow the Panel and the Surveyor General to take graduated action with respect to offences in proportion to the nature and severity of the offence.

Clause 17 Regulations

This Clause allows the Governor to make Regulations for the purposes of the Act. The Regulations may be made in relation to fees and charges, costs of proceedings, and other matters that may be specified in the Guidelines, or the process for reviewing and appealing a decision of the Panel or Registrar. The Regulations may provide that a contravention of any of the Regulations is an offence, and in respect of such an offence, a fine not exceeding 20 penalty units can be imposed, and in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues. The

Regulations may authorise any matter from time to time to be approved, determined, applied or regulated by the Surveyor General, chairperson or Panel.

Clause 18 **Administration of Act**

This Clause assigns the administration of the Act to the Minister for Primary Industries and Water, and the Department responsible to that Minister in relation to administration of the Act is the Department of Primary Industries, Parks, Water and Environment.

Clause 19 **Savings and Transitional**

The savings and transitional provisions set out in Schedule 2 have effect.

Clause 20 **Consequential Amendments**

The legislation specified in Schedule 3 is amended as specified in that Schedule.

SCHEDULE 1 – PLACE NAMES ADVISORY PANEL

This Schedule details provisions in relation to the Place Names Advisory Panel, including the term of office, the application of the *State Service Act 2000*, remuneration and conditions of appointment, vacation of office, filling of vacancies, meeting conventions including quorum and voting, and disclosure of interests.

SCHEDULE 2 – SAVINGS AND TRANSITIONAL

This Schedule describes the process for dealing with matters that are underway in accordance with the former Act when the new Act is commenced.

The Nomenclature Board is taken to be wound up on the commencement day of the new Act.

SCHEDULE 3 – CONSEQUENTIAL AMENDMENTS

This Schedule lists all consequential amendments to other legislation. The affected Acts are:

- *Crown Lands Act 1976*
- *Local Government Act 1993*
- *Nature Conservation Act 2002*
- *Survey Coordination Act 1944*

Section 2 of the *Survey Coordination Act 1944* is amended by omitting the definition of Board.

Sections 20A, 20AB, 20B, 20C, 20D, 20E, 20F, 20G, 20H, 20J, and 20K of the *Survey Coordination Act 1944* are repealed.

These are the sections of the *Survey Coordination Act 1944* that relate to nomenclature.